UNITED
NATIONS

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General Assembly
Security Council

Distr.
GENERAL

A/54/766
S/2000/146
24 February 2000
ENGLISH
ORIGINAL: SPANISH

GENERAL ASSEMBLY
Fifty-fourth session
Agenda item 76
GENERAL AND COMPLETE DISARMAMENT

SECURITY COUNCIL
Fifty-fifth year

Letter dated 24 February 2000 from the Permanent Representative of Costa Rica to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you herewith the draft international code of conduct on arms transfers drawn up by a group of 19 eminent persons and institutions that have received the Nobel Prize for Peace, including Dr. Oscar Arias Sánchez, former President of Costa Rica, Desmond Tutu, José Ramos Horta and Amnesty International (see annex).

I should be grateful if you would have this letter and its annex distributed as an official document of the General Assembly, under agenda item 76, and of the Security Council.

(Signed) Bernd NIEHAUS
Ambassador
Permanent Representative

ANNEX

[Original: English]

"NOBEL PEACE LAUREATES" INTERNATIONAL CODE OF CONDUCT ON ARMS TRANSFERS

INTRODUCTORY MEMORANDUM

We come from different nations with varied histories, and in the past, the world has honored each of our struggles for peace and justice with the Nobel Prize for Peace. Today, we speak as one to voice our common concern regarding the destructive effects of the unregulated arms trade. Together, we have written an International Code of Conduct on Arms Transfers, which, once adopted by all arms-selling nations, will benefit all humanity, nationalities, ethnicities, and religions.

This International Code of Conduct would govern all arms transfers, including conventional weapons and munitions, military and security training, and sensitive military and dual-use technologies. The Code stipulates that any country wishing to purchase arms must meet certain criteria, including the promotion of democracy, the protection of human rights, and transparency in military spending. It would also prohibit arms sales to nations that support terrorism and to states that are engaged in aggression against other nations or peoples.

The international community can no longer ignore the repercussions of irresponsible arms transfers. Indiscriminate weapons sales foster political instability and human rights violations, prolong violent conflicts, and weaken diplomatic efforts to resolve differences peacefully. Arms transfers often take place under a cloud of secrecy, and generally respond to the desires of a few while ignoring the needs and rights of the many. Sadly, many governments continue to divert scarce resources toward arms purchases while their people live in abject poverty.

Millions of civilians have been killed in conflict this century, and many more have lost their loved ones, their homes, their spirit. In a world where 1.3 billion people earn less than 1 dollar a day, the sale of weapons simply perpetuates poverty. Our children urgently need schools and health centers, not machine guns and fighter planes. Our children also need to be protected from violence. The dictators of this world, not the poor, clamor for arms.

Once in effect, this International Code of Conduct on Arms Transfers would prevent undemocratic governments from building sophisticated arsenals.

Governments which systematically abuse internationally recognized human rights through practices such as torture or arbitrary executions would not receive military training. Countries who commit genocide would not be able to buy munitions. Governments engaged in armed aggression against other countries or peoples could not buy missiles. States that support terrorism would be prevented from acquiring weapons. In addition, all nations would be required to report their arms purchases to the United Nations. This Code of Conduct would undeniably promote global peace and security, and protect human rights.

We call on all nations to endorse this International Code of Conduct on Arms Transfers. The citizens of the world must demand that leaders support this Code as well as similar efforts on the national and regional level. Only through solidarity, compassion, and courageous leadership can we make violence and its vestiges a distant memory of the past.

INTERNATIONAL CODE OF CONDUCT ON ARMS TRANSFERS

PREAMBLE

Gravely concerned that international transfers of major conventional weapons, small arms and light weapons, and ammunition result every year in human misery and countless deaths, the majority of which are suffered by civilian populations;

Recognising that, according to the UN Charter, every state has a right to individual and collective self-defence against acts of aggression, and that every human being has the inalienable right to life, liberty, and security of person, as stated in the Universal Declaration of Human Rights;

Convinced that conflicts should be settled by peaceful means rather than by the use or threat of force;

Alarmed by the excessive stockpiling of conventional weapons and by their increasingly sophisticated and lethal levels of technology, both of which tend to increase instability through regional arms races;

Recognising that internationally transferred arms and ammunition are frequently used to facilitate and commit human rights abuses and to prevent democratic governance, in contravention of international human rights law;

Recognising, moreover, that these weapons transferred internationally are frequently used to commit acts of aggression between and within states;

Mindful that weapons transfers often result in situations whereby vendor states confront enemies that they themselves have helped to arm;

Concerned that international arms transfers can undermine social and economic development in both exporting and importing countries by diverting scarce resources;

Noting that reduction of global military spending in many countries could release substantial resources for the social and economic development of all peoples and would permit dramatic increases in funding for demobilisation and conversion of resources to peaceful, productive uses;

Reaffirming that the United Nations has an important role to play in maintaining international peace and security through the regulation of armaments, as set forth in the Charter;

Welcoming, in this context, steps taken by Member States to provide for transparency and restraint of arms transfers, such as: the United Nations Register of Conventional Arms, the Panel of Governmental Experts on Small Arms, General Assembly resolutions on curbing the illicit transfer of conventional arms, the standardised reporting form of military expenditures, and the UN Disarmament Commission's Guidelines for International Arms Transfers;

Welcoming also that, in addition to measures of transparency and restraint, regulations on arms transfers have been achieved in specific cases, such as anti-personnel land mine export moratoria and arms embargoes;

Noting, however, that existing regulations are inadequate and that, in order to further the cause of global peace, security, and human rights, a more comprehensive international mechanism to regulate and monitor the transfer of arms must be established.

We hereby call on all governments to abide by the following rules and principles to govern international arms transfers:

SECTION I: DEFINITIONS

Article 1: Arms

For the purposes of this Code, arms include:

A. All weapons, munitions, sub-components and delivery systems, including, for example: battle tanks, armoured combat vehicles, military aircraft, artillery systems, military helicopters, missiles, paramilitary police equipment, mortars, machine guns and sub-machine guns, rifles, pistols, anti-tank weapons, mines, grenades, cluster bombs, and all types of ammunition.

B. Sensitive military and dual-use technologies, including, for example: encryption devices, certain machine tools, super-computers, gas-turbine and rocket-propulsion technology, avionics, thermal-imaging equipment and chemical irritants.

C. Military and security training including the provision of expertise, knowledge or skill in the use of such weapons, munitions, sub-components and sensitive technologies.

Article 2: Transfers

For the purposes of this Code, transfers are defined as:

A. Any transaction resulting in a change of title to, and/or control over, any arms defined in Article 1, and any physical movement of any arms defined in Article 1 from one jurisdiction to another. Such transfers include those conducted in return for direct payment, credit, foreign aid, grants, and goods received as a result of off-set or barter arrangements. They also include transfers of expertise, information, designs, technology or goods under licensing and co-production agreements, leasing arrangements, and arms deliveries in return for which the supplier receives no financial compensation, goods or services. Logistical and financial support for any of the above arrangements are also included.

B. Any provision by one or more persons to another in a different jurisdiction of expertise, knowledge or skill in the use of arms as defined in Article 1 above.

SECTION II: PRINCIPLES

Arms transfers may be conducted only if the proposed recipient state, or recipient party in the country of final destination, is in compliance with all of the following principles:

Article 3: Compliance with international human rights standards

A. Arms transfers may be conducted only if it can be reasonably demonstrated that the proposed transfer will not be used by the recipient state, or recipient party in the country of final destination, to contribute to grave violations of human rights, such as:

- genocide and other crimes against humanity, for example "ethnic cleansing,"[1]

[1] Ethnic cleansing is here defined as mass killings and/or forced displacement on the grounds of ethnicity

- extra-legal, summary or arbitrary executions;
- enforced disappearances;
- torture or other forms of cruel, inhuman or degrading treatment or punishment;
- detentions in violation of international human rights standards.

Arms transfers may be conducted only if the proposed recipient state, or recipient party in the country of final destination:

B. Vigorously investigates, prosecutes and brings to justice those responsible for the above-mentioned violations and abuses of human rights and violations of the laws and customs of war;

C. Makes it part of the training of the armed forces and law enforcement agencies that anyone ordered to commit the above-mentioned grave violations has a duty to refuse;

D. Works towards the establishment of impartial and independent bodies that oversee the protection of human rights and does not impede the free functioning of domestic and international human rights organisations.

Article 4: Compliance with international humanitarian law

Arms transfers may be conducted only if the proposed recipient state, or recipient party in the country of final destination:

A. Does not engage in, or sponsor, grave breaches of the laws and customs of war as set forth in the Geneva Conventions of 1949, and additional Protocols of 1977, and other rules and principles of international humanitarian law applicable during inter-state or intra-state armed conflict which, for example, prohibit arbitrary and summary execution, indiscriminate killing, mutilation, torture and cruel treatment, and hostage taking;

B. Provides access on a regular basis to humanitarian non-governmental organisations in time of conflict or humanitarian emergency, including access of the International Committee of the Red Cross to detainees.

C. Co-operates with international tribunals, either ad-hoc or general, with the power to adjudicate violations of the rules listed under (A).

Article 5: Respect for democratic rights

Arms transfers may be conducted only if the proposed recipient state:

A. Allows its citizens to choose their representatives through free and fairly-contested periodic elections that feature secret balloting;

B. Permits its citizens to express their political views through the freedom to speak, disseminate ideas and information, assemble, associate, and organise, including the organisation of political parties.

C. Has civilian institutions that determine national security policy and control the operations and spending of the armed forces and law enforcement agencies;

Article 6: Respect for international arms embargoes and military sanctions

Arms transfers may be conducted only if the proposed recipient state, or recipient party in the country of final destination:

A. Is in compliance with international agreements relating to arms embargoes and other military sanctions decreed by the United Nations Security Council, whether or not they have been adopted specifically under Chapter VII of the UN Charter;

B. Is in compliance with arms embargoes and other military sanctions decreed by regional organisations or regional arrangements to which it is a party.

Article 7

Participation in the United Nations Register of Conventional Arms Transfers may be conducted only if the recipient state fully participates in reporting arms transfers to the United Nations Register of Conventional Arms, as defined in United Nations General Assembly Resolution 46/36 L of December 9, 1991.

Article 8: Commitment to promote regional peace, security and stability

Arms transfers may be conducted only if the proposed recipient state or recipient party in the country of final destination:

A. Is not involved in an armed conflict in the region, unless it is recognised by the UN as being engaged in an act of self-defence in accordance with Article 51 of the UN Charter; or is playing a role in a UN-mandated operation;

B. Is not, as a result of this transfer, introducing weapons beyond those considered appropriate for its legitimate self-defence; or introducing a significantly more advanced military technology into the region;

C. Recognises the right of other UN-recognised states in the region to exist within agreed boundaries, and agrees to submit disputes relating to territorial claims to third party settlement;

D. Carries out and/or respects an agreed cease-fire as party to a former conflict;

E. Does not advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, in particular propaganda inciting individuals to overthrow their own or a foreign government, or inflammatory propaganda in pursuit of the vindication of territorial claims;

F. Is not engaged in armed actions or practices which are likely to lead to a significant number of displaced persons or refugees.

Article 9: Opposition to terrorism

Arms transfers may be conducted only if the proposed recipient state, or recipient party in the country of final destination:

A. Has ratified, and is not in violation of, the international conventions and instruments concerning terrorism or acts associated with terrorism, including, for example: the Tokyo Convention on Offences and Certain Acts Committed Onboard Aircraft; the Hague Convention for the Suppression of Unlawful Seizure of Aircraft; the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civilian Aircraft; the Convention on Offences Against Internationally Protected Persons (New York Convention); the International Convention Against the Taking of Hostages (Hostages Convention); and the Convention on the Physical Protection of Nuclear Material;

B. Is in compliance with the international obligations relating to the apprehension and prosecution or extradition of terrorist suspects found within the territory of the recipient state; or of persons indicted by an international ad-hoc War Crimes Tribunal or by an international criminal tribunal;

C. Does not allow its territory to be used as a base for terrorists, or as a base to supply or direct terrorists.

Article 10: Promotion of human development

Arms transfers may be conducted only if the recipient state's expenditures on health and education combined exceed its military expenditures, unless the recipient state can reasonably demonstrate that such transfers are justified by exceptional needs to counter acts of aggression.

SECTION III: IMPLEMENTATION

Article 11: Enacting the Code

All States shall introduce national legislation and regulations which ensure effective implementation and enforcement of this Code. Such laws and regulations shall:

A. Incorporate this Code;

B. Provide mechanisms for public scrutiny of all transfers in advance of any decision to authorise a transfer;

C. Require end-use certification which incorporates the principles of the Code into legally binding conditions for the receipt of arms. End-user certification must identify both the recipient, and the actual use to which the equipment will be put;

D. Establish effective channels for receiving information on implementation of the Code from non-governmental organisations.

E. Require States to make a criminal offence any transfers made in violation of the Code, or any attempt to effect, to conspire to effect, or to incite any such transfer.

Article 12: Monitoring the Code internationally

All States shall:

A. Provide an annual report on the implementation of the Code to the Secretary-General of the United Nations who will report to the General Assembly;

B. Consult each other and cooperate with each other bilaterally, through the Secretary General of the UN, or through other appropriate international procedures to resolve any problems that may arise with regard to the interpretation and application of the provisions of this Code; and shall consider measures designed to encourage compliance, including collective measures in conformity with international law.

Article 13: Verification

Parties to the Code shall convene a review two years after this Code comes into operation with the specific purpose of developing an effective verification commission.